REMARKS

This Amendment is in response to the Office Action mailed February 5, 2008. Applicant has amended claims 1 and 9 and cancelled claims 3 and 21 without prejudice. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

Request for Examiner's Interview

Applicants respectfully request the Examiner to contact the undersigned attorney if, after review, there are still questions regarding patentability. Such discussions will greatly facilitate the prosecution of this case. The undersigned attorney can be reached at the telephone number listed below.

Rejections Under 35 U.S.C. § 103

Claims 1-3 and 5-13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Di Benedetto (U.S. Patent No. 7,061,858) in view of Liu (U.S. Patent No. 7,197,660). Applicants respectfully disagree and traverse the rejection because a *prima facie* case of obviousness has not been established.

As the Examiner is aware, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. *See MPEP §2143; see also In Re Fine, 873 F. 2d 1071, 5 U.S.P.Q.2D 1596 (Fed. Cir. 1988).* Herein, the combined teachings of the cited references fail to describe or suggest all of the claim limitations.

Herein, with respect to independent claim 1, Di Benedetto does not describe the operation for exchanging messages between at least two aggregation devices, operating concurrently, to ensure that each of these devices is RSMLT enabled and synchronizing forwarding records of local routing instances for Internet Protocol (IP) networking between the at least two aggregation devices, where the forwarding records are media access control (MAC) records. Moreover, each of the MAC records includes an indication that, when set to a first logic level, allows routing of that MAC record over a port different than ports through which the forwarding records are exchanged between the at least two aggregation devices over the IST link. When the indication bit is set to a second logic level, the MAC record is not allowed to be routed over the IST link.

First, Di Benedetto is directed to a network device with two supervisory cards – where the two supervisory cards are in active and standby modes. This is illustrative of the master and back-up configuration. In contrast, the aggregation devices are separate switches, both of these switches being fully active and thus, would not support RSMLT operations. Liu describes a master and back-up configuration as well, but appears to rely on an active-active configuration where the network device operates as a master in one redundancy group and a back-up in another group. Hence, these patents are directed to supervisory failover and there is no teaching or

suggestion of a data forwarding path between two aggregation devices such as cluster switches for example. The solutions offered by both Di Benedetto and Liu are completely different from and cannot be combined to produce the claimed invention.

Hence, the teachings of Di Benedetto and Liu, either alone or in combination, fail to teach or even suggest aggregation devices that are concurrently active, rather than teaching a master-backup relationship where the master device is in an active state (as a master) and the back-up device is in a standby state.

Second, Di Benedetto describes the issuance of a command message to update its own sync record (362) and transmit the new sync record to the standby supervisor (204). *See col. 16, lines 19-21 of* Di Benedetto. While the Examiner considers that the command message to constitute a "MAC record," we disagree. Both claims 1 and 9 further include the limitation that the MAC record features an indication (or a routing bit) that controls whether routing can or cannot take place over a specific link for that given MAC record. This claimed "indication" or "routing bit" does not constitute a bit map that is used by an event manager (334) to monitor when events have been completed as described in detail in Di Benedetto. *See col. 16, lines 27-34 of Di Benedetto.* Rather, the indication/routing identifies whether this specialized routing can take place at all.

Hence, we believe that the combined teachings of Di Benedetto and Liu do not suggest the invention as claimed, and respectfully requests the Examiner to consider amended claims 1 and 9.

Applicants respectfully traverse the outstanding §103(a) rejection because a *prima facie* case of obviousness has not been established for the subject matter set forth in claims 2-3, 5-8 and 10-13. For instance, claim 2 includes the limitation that the aggregation devices as claimed are "operating as part of a Layer 3 (L3) network." The supervisor cards cannot be construed as L3 devices, as alleged in the Office Action, because this would require the supervisor cards to be able to perform data forwarding. However, the supervisor cards appear to provide functions supported associated with control plane management, and are not responsible for or adapted to conduct packet forwarding as performed by L3 network devices. This limitation is highlighted in independent claim 19 as well.

However, Applicants respectfully believe that further discussions of the allowability of claims 2-3, 5-8 and 10-13 is moot based on the allowability of these claims from their dependency on independent claims 1 and 9. Applicants reserve the right to raise arguments against the rejections if an appeal is warranted.

Applicants respectfully request that the Examiner withdraw the outstanding §103(a) rejection.

Claims 14-18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Di Benedetto in view of Liu and Goodwin (U.S. Publication No. 2002/0124107). Applicants respectfully disagree and traverse the rejection because a *prima facie* case of obviousness has not

been established. While Applicants respectfully traverse the rejection because a *prima facie* case of obviousness has not been established for the subject matter contained in claims 14-18, Applicants respectfully believe that such discussion is moot based on the allowability of these claims based on its dependency on independent claim 9. Applicants reserve the right to raise arguments against the rejections if an appeal is warranted.
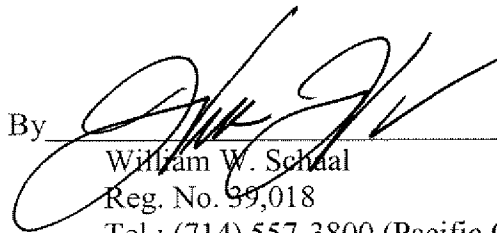
Conclusion

Applicants reserve all rights with respect to the applicability of the doctrine of equivalents. Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
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